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12 ***Attorneys for Plaintiff and the Class***

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13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 JEMS SOFTWARE AND CONSULTING,
16 INC., on behalf of itself and all others
17 similarly situated,

18 Plaintiff,

19 v.

20 LEXAR MEDIA, INC., *et al.*,

21 Defendants.

Case No.: 3:07-CV-05041-EMC

**[PROPOSED] ORDER APPOINTING
LABATON SUCHAROW LLP [INTERIM
LEAD COUNSEL] [INTERIM CO-LEAD
COUNSEL] FOR DIRECT PURCHASER
PLAINTIFFS**

22
23 The Cross-Motion to Appoint Labaton Sucharow LLP as Interim Lead Counsel Or, In
24 The Alternative, as Interim Co-Lead Counsel for Direct Purchaser Plaintiffs came on regularly
25 for hearing. The Court, having carefully considered the papers and pleadings on file and oral
26 arguments of counsel, hereby GRANTS the motion. It is hereby ORDERED that:

1 1. Pursuant to Federal Rule of Civil Procedure 23(g)(2)(A), the Court appoints
2 Labaton Sucharow LLP as [Interim Lead Counsel] [Interim Co-Lead Counsel] for the Direct
3 Purchaser Plaintiffs.

4 2. [Interim Lead Counsel] [Interim Co-Lead Counsel] shall be responsible for the
5 overall conduct of the litigation on behalf of the Direct Purchaser Plaintiffs as follows:

- 6 a. To promote the orderly and efficient conduct of this litigation and to avoid
7 unnecessary duplication and unproductive efforts for all parties;
- 8 b. To conduct all pretrial, trial and post-trial proceedings on behalf of plaintiffs;
- 9 c. To sign any pleadings, motions, briefs, discovery requests or objections,
10 subpoenas or notices on behalf of plaintiffs;
- 11 d. To determine and present in motions, briefs, oral argument or such other fashion
12 as may be appropriate, the position of all of the plaintiffs as to all matters arising
13 during pretrial and trial proceedings;
- 14 e. To designate attorneys to act as spokespersons at pretrial conferences;
- 15 f. To conduct or coordinate discovery on behalf of plaintiffs consistent with the
16 requirements of the Federal Rules of Civil Procedure, including the preparation of
17 joint interrogatories, requests for production of documents, requests for
18 admissions and the examination of witnesses in depositions;
- 19 g. To designate attorneys to enter into stipulations necessary for the conduct of the
20 litigation with opposing counsel;
- 21 h. To make all work assignments, including the organization and formation of a
22 Plaintiffs' Executive Committee and any subcommittees, whose role will be to
23 assist in the prosecution of the consolidated action as directed and supervised by
24 [Interim Lead Counsel] [Interim Co-Lead Counsel] ;
- 25 i. To collect time, lodestar and expense reports from each firm in the consolidated
26 action, including paralegals and any other staff members whose time is expected
27 to be included in any fee petition;
- 28 j. To employ and consult with experts;

- 1 k. To call meetings of plaintiffs' counsel when deemed appropriate;
- 2 l. To conduct settlement negotiations with defense counsel on behalf of plaintiffs
- 3 and the putative direct purchaser class; and
- 4 m. To otherwise coordinate the work of all plaintiffs' counsel, and perform such
- 5 other duties as [Interim Lead Counsel] [Interim Co-Lead Counsel] deems
- 6 necessary or as authorized by further order of the Court.
- 7 3. Labaton Sucharow LLP is hereby designated [Interim Lead Counsel] [Interim Co-
- 8 Lead Counsel] for the Direct Purchaser Plaintiffs, and upon whom all notices, orders, pleadings,
- 9 motions, discovery, and memoranda relating to the coordinated actions shall be served, and
- 10 defendants shall effect service of papers on Direct Purchaser Plaintiffs in the coordinated actions
- 11 by serving Labaton Sucharow LLP or any other firm designated by the Court as Co-Lead
- 12 Counsel. An agreement reached between defendant(s) and Interim Lead or Co-Lead Counsel or
- 13 their designee(s) shall be binding on all other plaintiffs' counsel in the direct purchaser
- 14 coordinated actions.
- 15 4. All counsel shall keep a daily record of their time spent and expenses incurred in
- 16 connection with this litigation, indicating with specificity the hours, location, and particular
- 17 activity.

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19 Dated:

20 Honorable Sandra Brown Armstrong
21 United States District Court

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